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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,959	07/10/2001	Farhad Pezeshki	06944.0038	7174

27871 7590 12/20/2005

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EXAMINER

LIPMAN, JACOB

ART UNIT PAPER NUMBER

2134

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/900,959	PEZESHKI ET AL	
	Examiner	Art Unit	
	Jacob Lipman	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant admitted prior art in view of Deitel et al., in C++ How to Program.

With regard to claims 1, 2, and 5, applicant discloses a “typical conditional jump” which is determined by evaluating a distinguishing value (V) against a reference value (TH Figure 1 line 3) where the reference value is bounded by an upper and lower limit (Figure 1 line 1) directing a program to one of two branches (Figure 1 lines 3-6) computing a address derived from said distinguishing value and a random number (each step in the for loop computes a new V based on the original V and TH, Figure 1 lines 2-3). Applicant does not disclose that for each evaluation a different number of instructions are executed. Deitel shows that it is well known to have different instructions in statements1 and statements2 of an if/else statement (page 61). It would have been obvious to one of ordinary skill in the art to have different instructions in statements1 and statements2 to have the condition implement different purposes.

With regard to claim 3, the examiner takes official notice that subroutines often change the return of a routine. It would have been obvious to one of ordinary skill in the art that subroutines could be used in this conditional jump to vary the uses.

Response to Arguments

3. Applicant's arguments filed 28 November 2005 have been fully considered but they are not persuasive.

Applicant argues that the admitted prior art does not disclose the computation of a target address that is derived from value V and a base address constituted by a random number such that a different number of instructions are executed for each conditional jump. The examiner outlined these limitations in the prior office action, and it unclear which specific limitation applicant feels is not disclosed by the admitted prior art. In the prior art the target address (address of statements1 or statements2 of Fig 1) is derived from TH and V. Applicant did not admit each group of statements not having the same number of instructions. It is well known that the statements might have a different number of instructions, and that is the only teaching being used from Deitel. The examiner is giving an example of Fig 1 of where a different number of instructions would be executed at each jump. If Vmin is 0 and Vmax is 1, TH would be some .5. The first time the For loop ran, V is 0, thus is less than TH and statements1, having one instruction, is executed. The next time, V is 1, and is not less than TH, thus statements2 are run, having two instructions. In this example each time the jump is run a different number of instructions are executed based on the address computed from distinguishing value (V) and a base random number (TH).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3837. The examiner can normally be reached on M-Th 7 AM-3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL


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